

AMENDED IN ASSEMBLY APRIL 21, 2004

AMENDED IN ASSEMBLY APRIL 12, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2430

Introduced by Assembly Member Wiggins
(Principal coauthor: Senator Chesbro)

February 19, 2004

An act to ~~add Section 2174.5 to the Civil Code, and to amend Sections 5500 and 5501 of, and to add Section 5513 to, the Public Utilities Code,~~ relating to commercial air carriers.

LEGISLATIVE COUNSEL'S DIGEST

AB 2430, as amended, Wiggins. Commercial air carriers: hot air balloons.

Existing law requires the Public Utilities Commission to require every commercial air operator, as defined, to procure and continue in effect, adequate protection against liability for personal bodily injuries and property damage as a result of an accident, that may be imposed by law upon the operator and upon any person using, operating, or renting an aircraft, as defined, with the permission of the operator.

This bill would *exclude from the definition of commercial air operator a corporation or person or other entity furnishing or providing transportation by hot air balloon for entertainment or recreational purposes from the definitions of commercial air operator and aircraft. The bill would exclude from the definition of aircraft a hot air balloon furnished or providing transportation for entertainment or recreational purposes.*

~~This~~

The bill, notwithstanding those provisions, would require that any person providing transportation by hot air balloon for entertainment or recreational purposes provide ~~passengers with a copy of a release of liability agreement, as specified, and require every passenger to execute the release of liability agreement~~ a notice to every passenger that identifies both the insurer providing a policy of liability insurance to the person providing that transportation and the amount of insurance coverage provided by that policy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1.—Section 2174.5 is added to the Civil Code, to~~
2 ~~read:~~
3 ~~2174.5. Notwithstanding any other law, including Section~~
4 ~~2175, any person owning, controlling, operating, renting,~~
5 ~~managing, furnishing, or otherwise providing transportation by~~
6 ~~hot air balloon for entertainment or recreational purposes shall~~
7 ~~provide every passenger with a copy of a release of liability~~
8 ~~agreement and shall require every passenger to execute a release~~
9 ~~of liability agreement. A copy of the release of liability agreement~~
10 ~~shall be provided to every passenger prior to any payment by the~~
11 ~~passenger. The release of liability agreement shall be in 14 point~~
12 ~~boldface type if printed, or in boldface capital letters if typed. The~~
13 ~~release of liability agreement shall read as follows:~~
14 ~~By signing this agreement, I am assuming personal~~
15 ~~responsibility for my decision to take part in this outdoor~~
16 ~~adventure of hot air ballooning provided by [name of hot air~~
17 ~~balloon operator], its officers, employees, agents, and~~
18 ~~subcontractors, and I am expressly accepting the risks that are and~~
19 ~~may be inherent in ballooning and its associated activities on the~~
20 ~~ground, with the knowledge that hot air ballooning is subject to~~
21 ~~risks that include, but are not limited to, accident, negligence,~~
22 ~~error, inconvenience, injury and, in extremely rare cases, death,~~
23 ~~associated with outdoor adventures, hot air ballooning and~~
24 ~~aviation activities. By signing this agreement, I understand that I~~
25 ~~am releasing from all liability [name of hot air balloon operator],~~
26 ~~its officers, agents, employees, subcontractors and the owners of~~

1 ~~the land used for launches and landings. I have carefully read this~~
2 ~~agreement, have had the opportunity to ask for clarification and~~
3 ~~further details, and fully understand its contents and my~~
4 ~~responsibility as a passenger. I also understand that should I decide~~
5 ~~not to fly after reading this that the cancellation penalties will not~~
6 ~~apply.~~

7 ~~SEC. 2.—~~

8 *SECTION 1.* Section 5500 of the Public Utilities Code is
9 amended to read:

10 5500. As used in this article, “commercial air operator”
11 means any person owning, controlling, operating, renting, or
12 managing aircraft for any commercial purpose for compensation.
13 “Commercial air operator” does not include any person owning,
14 controlling, operating, renting, managing, furnishing, or
15 otherwise providing transportation by hot air balloon for
16 entertainment or recreational purposes.

17 ~~SEC. 3.—~~

18 *SEC. 2.* Section 5501 of the Public Utilities Code is amended
19 to read:

20 5501. As used in this article, “aircraft” means any
21 contrivance used for navigation of, or flight in, the air. “Aircraft”
22 does not include a hot air balloon furnished or providing
23 transportation for entertainment or recreational purposes.

24 *SEC. 3.* Section 5513 is added to the Public Utilities Code, to
25 read:

26 5513. *Notwithstanding any other provision of this article, any*
27 *person owning, controlling, operating, renting, managing,*
28 *furnishing, or otherwise providing transportation by hot air*
29 *balloon for entertainment or recreational purposes shall provide*
30 *a notice to every passenger that identifies both the insurer*
31 *providing a policy of liability insurance to the person providing*
32 *that transportation and the amount of insurance coverage*
33 *provided by that policy.*